

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

JAMES EDWARD MEIER §
VS. § CIVIL ACTION NO. 1:03cv1483
OWEN MURRAY, ET AL §

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff James Edward Meier, an inmate confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed the above-styled civil rights lawsuit. The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable orders of this court and 28 U.S.C. § 636.

The magistrate judge has submitted a Report and Recommendation concerning the claim against defendant McDonald.¹ The magistrate judge recommends the claim against defendant McDonald be dismissed without prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the records, pleadings and all available evidence. Plaintiff filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections. After careful consideration, the court is of the opinion the objections are without merit. The magistrate judge's recommendation was based on the conclusion that plaintiff has been unable to provide an address at which defendant McDonald may be served with process. The magistrate judge correctly concluded that while plaintiff is not responsible serving defendant McDonald with process, he is responsible for providing an address which the United States Marshal can use to serve defendant McDonald with process. As no such address has been provided by plaintiff, the claim against

¹ The claim against the other defendant was previously dismissed.

defendant McDonald must be dismissed.²

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered dismissing this lawsuit. If plaintiff can provide the court with a current address for defendant McDonald within 60 days of the date set forth below, the court will vacate the judgment and direct the United States Marshal to serve defendant McDonald with process.

So **ORDERED** and **SIGNED** this **15** day of **August, 2007**.



Ron Clark, United States District Judge

² Counsel for the remaining defendant informed the court that defendant McDonald was no longer employed by the State of Texas and that the Office of the Attorney General did not have a current address for defendant McDonald.